

Criminal Code

Mr. NOSEWORTHY: What effect would the omission of the words "for life" have upon administration?

Mr. ST. LAURENT: If a maximum is not provided, the magistrate could not impose any imprisonment. If we eliminated the words "for life" the imprisonment that could be imposed could not go beyond one second. It would just be a technical imprisonment and the sentence would be served just as soon as it had begun.

Mr. HANSON (York-Sunbury): It would be void for uncertainty.

Mr. KINLEY: The hon. member for York-Sunbury referred to me. As a lay member of the house I have been listening to the interesting discussion and it occurs to me that by the removal of the minimum penalty you are making the statute more drastic in effect. You have within the bracket a high penalty and a low penalty. In this case the supreme penalty is life and the minimum penalty is three years. If you take away the minimum penalty of three years, what will the impression be upon the courts when they see the new statute which contains no reference to a minimum penalty? If a sentence of only two years or one year is imposed, the public may say, "What kind of judge is that? He gives only one or two years when the statute says that a life penalty may be imposed."

Mr. HANSON (York-Sunbury): That is not correct. The statute does not say what penalty the judge shall give; it simply states that the maximum penalty is life.

Mr. KINLEY: The statute says that it may be life. That indicates what this parliament thinks of the offence, and it would appear in the statute without any qualification. At the present time there is a qualification, and it seems to me that when you leave only the high bracket you create a condition which makes the law more drastic.

Section agreed to.

On section 2—Penalty.

Mr. ST. LAURENT: I promised the hon. member that I would give the reason for increasing the penalty in this section. This is done because it has been found that the importance of contracts is frequently such that the former penalty was entirely out of proportion with the amount involved in the transaction. Some of these transactions run into large sums of money and it was felt that the penalty was not in proportion with what might be involved in cases such as the one mentioned by the hon. member for

[Mr. R. B. Hanson.]

Winnipeg North Centre (Mr. Knowles). That case is before the courts and the contract involved there is for amounts for which the former penalties were entirely out of proportion. The situation with respect to such frauds is not that the penalty provided by the criminal code is the only redress because there is redress in collecting from the accused person or firm moneys improperly received.

Mr. HANSON (York-Sunbury): Restitution.

Mr. ST. LAURENT: Yes. This is in addition to whatever civil debt may arise out of the fraud that has been perpetrated. The amount was suggested and it impresses me as being quite substantial as a penalty. The penalty is seven years in the penitentiary or a \$50,000 fine or both. That gives the court some latitude to show its appreciation of the gravity of the offence. We have had cases under the wartime prices and trade board regulations where fines of \$25 and fines of \$25,000 have been imposed by courts of the same jurisdiction, thereby indicating their appreciation of the scale of gravity of the offence committed. In these matters which involve financial gains the monetary penalties sometimes have to be considerable to have any deterrent effect.

Mr. HANSON (York-Sunbury): That I think is true with respect to criminal acts. May I point out that offences under the wartime prices and trade board are *mala prohibita* and are not in the same category as *mala in se*. There is a great difference between the two kinds of acts. But we are here dealing with an offence in itself. The other is merely an offence against what is an arbitrary restriction on the rights of citizens. You cannot make a comparison between the two.

Mr. ST. LAURENT: There are cases which can be compared, as I think the hon. member will recognize; for instance, the dodges that are resorted to in black marketing gasoline; the printing of false ration coupons, and other rackets that are resorted to for obtaining sugar, for instance, or some other commodity in excess of the quota to which one is entitled; getting out of a coupon bank coupons which have been used but not destroyed, and selling them. There are things of that kind which impress the courts before which the facts are proved as being rackets that have to be severely stamped upon.

Mr. KNOWLES: The case to which I was referring and to which the minister has alluded may turn out to have some connection with the wartime prices and trade board or the Commodity Prices Stabilization Corporation,